

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

MARIXA A. LASSO,

Plaintiff,

v.

MARK HANSEN,

District Director,

District 13–Cleveland District Office

U.S. Citizenship and Immigration

Services

LEON RODRIGUEZ,

Director, U.S. Citizenship and

Immigration Services;

JEH CHARLES JOHNSON, Secretary,

U.S. Department of Homeland

Security;

LORETTA E. LYNCH, Attorney General

of the United States;

Defendants.

Civil Action No. 1:16-cv-1961

COMPLAINT

COMES NOW, Marixa Lasso, Plaintiff, in the above-styled and numbered cause, and for cause of action would show unto the Court the following:

I. INTRODUCTION

1. This is a civil action seeking mandamus, declaratory, and injunctive relief based on the failure of the United States Citizenship and Immigration Services (“CIS”) to adjudicate Plaintiff’s N-400 Application for Naturalization (Application Number NBC*005779525)¹ filed on April 6, 2015 based on a Permanent Resident Card (“Green Card”)² approved on May 10, 2010. The application is currently pending at the USCIS, National Benefits Center, Missouri.

II. JURISDICTION

2. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2201 (Declaratory Judgment Act); 5 U.S.C. § 555 and § 701 et seq. (Administrative Procedures Act); and 28 U.S.C. § 1361 (mandamus statute).

3. Relief is requested pursuant to said statutes.

III. VENUE

4. Venue is appropriate in the District Court for the Northern District of Ohio. See

¹ Exhibit A- N-400 Receipt Notice

² Exhibit B- Permanent Resident Card (“Green Card”)

28 U.S.C. § 1391(e). Plaintiff resides at 3242 Dellwood Rd. Cleveland Heights, Ohio 44118 (Cuyahoga County) and within this court's jurisdiction.

IV. PLAINTIFF

5. Plaintiff is a native and citizen of Italy. She received permanent resident status ("Green Card") on May 10, 2010 (see exhibit B).

6. Subsequently Plaintiff filed for her naturalization (Form N-400) on April 6, 2015 based on her I-130 approval (see Exhibit A) and submitted her biometrics on May 7, 2015 (see Exhibit C).

7. The application is currently pending with USCIS, District 13 Office in Cleveland, Ohio.

V. DEFENDANTS

8. Defendant Mark Hansen is the District Director of the USCIS Office in Cleveland, Ohio. He is the Official directly in charge of adjudication of all applications in District 13.

9. Defendant Leon Rodriguez is the Director of United States Citizenship and Immigration Services.

10. Defendant Jeh Charles Johnson is the Secretary of the Department of Homeland Security. As a result of a massive reorganization, the Immigration and Naturalization

Service was dissolved on March 1, 2003 and its functions were taken over by the Department of Homeland Security. “CIS” is a branch of the Department of Homeland Security.

11. Loretta E. Lynch is the Attorney General of the United States.

12. All Defendants are being sued in their official capacities.

VI. FACTUAL BACKGROUND

13. Plaintiff is a native and citizen of Italy. She received Permanent Resident Status (“Green Card”) on May 10, 2010.

14. Plaintiff filed for naturalization (N-400) on April 6, 2015 based on her Permanent Resident status (resident since 5/10/10).

15. The application is currently pending with USCIS, District 13 Office in Cleveland, Ohio.

16. Plaintiff has made several inquiries as to the status of her case but no action has been taken on the applications by Defendants.

VII. CAUSE OF ACTION

17. Plaintiff incorporates by reference paragraphs 1-18 of the Complaint.

18. Plaintiff is requesting that Defendants immediately take all actions necessary to adjudicate the N-400 application which has been pending since April 6, 2015.

19. Plaintiff has a clear right to have the application adjudicated in a timely manner in accordance with the applicable laws and regulations. The adjudication of an Application for Naturalization, is a ministerial, non-discretionary task that Defendants must perform within a reasonable period of time. Defendants have the discretion to grant or deny the application, but this does not bear on the nondiscretionary duty to make a decision on the application or petition.

20. Defendants have failed to properly carry out their adjudicative functions delegated to them. The Government officials and Agencies named in the Complaint violated their statutory and regulatory duties owed to Plaintiff to timely adjudicate this application. See 5 U.S.C. § 555(b) (Agency required to conclude matters presented to it within a reasonable period of time). There has been ample time to issue a decision on and the delay in adjudicating this case is entirely unreasonable. See Galvez v. Howerton, 503 F. Supp. 35, 39 (C.D. Cal. 1980) (holding a six-month delay unreasonable); Paunescu v. INS, 76 F. Supp. 2d 896, 901-02 (N.D. Ill. 1999) (holding a ten-month delay unreasonable); Yu v. Brown, 36 F. Supp. 2d 922, 932 (holding a two-and-a-half year delay unreasonable).

21. No other adequate remedy is available to the Plaintiff. Plaintiff has made numerous inquiries regarding the status of the application. However, it remains pending. Thus, Plaintiff has been forced to file the instant Complaint.

22. The delay has resulted in significant hardship to Plaintiff. She has been deprived

of the benefits of lawful permanent resident status.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court:

- (1) Assume jurisdiction of this cause;
- (2) Declare that the delay in adjudicating Plaintiff's N-400 application to be unreasonable.
- (3) Compel the Defendants and those acting under them to perform their duties as required under the applicable statutes and regulations relating to adjudication of the N-400 application.
- (4) Compel Defendants to immediately take all actions necessary to adjudicate Plaintiff's N-400 application within 30 days of this Court's Order.
- (5) Grant reasonable attorney's fees;
- (6) Grant any other relief as this Court deems proper.

Dated: 08/04/2016

Respectfully submitted,

s/Margaret W. Wong, Esq.
Margaret W. Wong
Margaret W. Wong & Associates Co., LPA
Attorney for Plaintiff
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Cleveland, Ohio 44114
(216) 566-9908
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CERTIFICATE OF SERVICE

I, Margaret Wong, certify that I served the following complaint and attached exhibits to:

- Mark Hansen, Director
USCIS District 13 - Cleveland
1240 East Ninth Street, Room 501
Cleveland, OH 44199-2085
- LEON RODRIGUEZ, Director,
United States Citizenship and Immigration Services
20 Massachusetts Ave., NW
Washington, DC 20529
- JEH CHARLES JOHNSON, Secretary,
Department of Homeland Security,
Washington, DC 20528
- LORETTA E. LYNCH, Attorney General
Of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
- CAROL S. RENDON, US Attorney Northern District of Ohio
Office of the United States Attorney
United States Court House
801 West Superior Avenue; Suite 400
Cleveland, Ohio 44113-1852

this 4th day of August 2016.

s/Margaret W. Wong
Margaret W. Wong
Attorney for Plaintiff
3150 Chester Ave.
Cleveland, Ohio 44114
(216) 566-9908
(216) 566-1125 (fax)
wong@imwong.com

EXHIBITS LIST

Exhibit A- N-400 Receipt Notice

Exhibit B- Permanent Resident Card (“Green Card”)

Exhibit C- Biometric Notification and Stamp